

# Oral Argument Calendar

## United States Court of Appeals for the Sixth Circuit

Page 1

Tuesday, December 05, 2017

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Clay, Gibbons, Bush**

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**17-1168 Stewart Spencer, et al. v. DTE Electric Company, et al.**

**2:15-cv-11421**

Eastern District of Michigan at Detroit

G. Rosen

In this diversity personal injury action, the plaintiffs appeal the summary judgment for defendants. (15 Minutes Per Side)

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**17-5355 Malinda Cooley v. East TN Human Resources Agency**

**3:15-cv-00467**

Eastern District of Tennessee at Knoxville

C. Shirley

P. Reeves

Plaintiff appeals the summary judgment for Defendant in this action alleging violations of the Americans with Disabilities Act. (15 Minutes Per Side)

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**17-3152 Carol Kaufmann, et al. v. FAA, et al.**

**99-99999**

Federal Aviation Administration

Petitioners petition for review of an order of the Federal Aviation Administration titled Finding of No Significant Impact and Record of Decision which provided approval to seek financial assistance to implement a plan by the Louisville Regional Airport Authority to acquire aviation easements authorizing the trimming or removal and replacement of trees surrounding Bowman Field Airport. (15 Minutes for Petitioners; 15 Minutes to be Shared by Respondents)

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**17-3277 Barbara Fletcher, et al. v. Honeywell Intl, Inc.**

**3:16-cv-00302**

Southern District of Ohio at Dayton

W. Rice

Defendant in this ERISA case appeals the district court's judgment permanently enjoining it from terminating plaintiffs' healthcare benefits. (15 Minutes Per Side)

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**17-1272 USA v. Anthony Vaughn**

**1:13-pt-00009-1**

Western District of Michigan at Grand Rapids

R. Jonker

Defendant appeals the revocation of his term of supervised release. (To Be Submitted On Briefs)

Tuesday, December 05, 2017

607 - 6th Floor West Courtroom, 2:00 P.M.

Before: **Batchelder, Griffin, White**

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**17-1092 Artur Zawada, et al. v. Uber Technologies, Inc., et al.**

**2:16-cv-11334**

Eastern District of Michigan at Detroit

L. Michelson

In this action under the Fair Labor Standards Act, plaintiffs appeal the order compelling arbitration of their claims and dismissing their action. (9 Minutes for Appellants and 6 Minutes for Amicus NLRB; 15 Minutes for Appellees)

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**17-3175 David M. Hopper, et al. v. Montgomery County Sheriff, et al.**

**3:14-cv-00158**

Southern District of Ohio at Dayton

M. Newman

Defendants appeal the district court's denial of qualified and state-law immunity in this civil-rights action filed under 42 U.S.C. Section 1983. (15 Minutes Per Side)

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**17-1131 John Machacek, Jr., et al. v. CIR**

**12701-11**

Commissioner of Internal Revenue

Petitioners seek review of a decision of the Tax Court finding deficiencies in income tax paid for 2005 and 2006 and the denial of their motion to vacate or revise that decision. (15 Minutes Per Side)

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**17-1489 USA v. Tashun White**

**5:15-cr-20040-6**

Eastern District of Michigan at Ann Arbor

J. Levy

In this criminal action tried to a jury, defendant appeals her conviction of conspiracy to launder monetary instruments. (To Be Submitted On Briefs)

Tuesday, December 05, 2017

636 - 6th Floor East Courtroom, 2:00 P.M.

Before: **Siler, Kethledge, Thapar**

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**17-5638 Nestle Waters North America, v. Mountain Glacier LLC**

**3:17-cv-00154**

Middle District of Tennessee at Nashville

A. Trauger

Defendant appeals the district court's order affirming the bankruptcy court's judgment in favor of Plaintiff.  
(15 Minutes Per Side)

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**17-1225 Debbie Rohn, et al. v. Viacom International, Inc., et al.**

**1:14-cv-00083**

Western District of Michigan at Grand Rapids

J. Neff

Plaintiffs appeal the summary judgment for defendants in this trademark infringement action. (15  
Minutes Per Side)

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**17-5094 USA v. Kevin Clardy**

**3:09-cr-00122-1**

Middle District of Tennessee at Nashville

W. Haynes

Defendant appeals the denial of his motion for reduction of sentence. (To Be Submitted On Briefs)

Wednesday, December 06, 2017

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Siler, Kethledge, Thapar**

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**17-1422 Jeffrey Curry v. Paul Klee**

[2:14-cv-10747](#)

Eastern District of Michigan at Detroit

D. Grand

D. Lawson

In this appeal from a district court order denying a Michigan prisoner's 28 U.S.C. Section 2254 habeas corpus petition, the petitioner-appellant challenges the district court's rejection of his claim that his confession and his waiver of his rights under *Miranda v. Arizona*, 384 U.S. 436 (1966), were involuntary. (15 Minutes Per Side)

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**17-1513 Joseph Flanigan v. S. Panin**

[2:15-cv-12504](#)

Eastern District of Michigan at Detroit

L. Michelson

In this civil rights, excessive force action, defendant appeals the order denying in part his motion for summary judgment on grounds of qualified immunity. (15 Minutes Per Side)

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**17-3427 R. Alexander Acosta v. Cathedral Buffet, Inc., et al.**

[5:15-cv-01577](#)

Northern District of Ohio at Akron

B. Pearson

Defendants appeal the district court's judgment for plaintiffs in this action brought to enforce the Fair Labor Standards Act as applied to The Buffet, an Ohio for-profit corporation whose sole shareholder is Grace Cathedral, Inc. (15 Minutes Per Side)

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**17-3744 Brian Hall, et al. v. Edgewood Partners Insurance C**

[3:17-cv-00821](#)

Northern District of Ohio at Toledo

J. Helmick

Plaintiffs appeal the district court's order granting defendant's motion for temporary restraining order enforcing restrictive covenants preventing plaintiffs' from soliciting defendant's customers. (15 Minutes Per Side)

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**17-3366 Kellee Kendell, et al. v. Phoenix Home Health Care Serv**

[2:15-cv-03009](#)

Southern District of Ohio at Columbus

E. Deavers

Plaintiffs appeal the district court's summary judgment for defendant in this diversity action brought by former employees alleging breach of contract and unjust enrichment. (To Be Submitted On Briefs)

Wednesday, December 06, 2017

607 - 6th Floor West Courtroom, 9:00 A.M.

Before: **Batchelder, Griffin, White**

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**17-1154 Marquette County Road Comm v. EPA, et al.**[2:15-cv-00093](#)

Western District of Michigan at Marquette

R. Bell

Plaintiff appeals the dismissal of its Administrative Procedures Act action challenging the failure of issue a permit under the Clean Water Act and the denial of its motion for reconsideration. (15 Minutes Per Side)

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**17-3496 Wilson-Davis & Co., Inc. v. James Mirgliotta**[1:16-cv-03056](#)

Northern District of Ohio at Cleveland

P. Gaughan

In this diversity action, plaintiff appeals the declaratory judgment holding that certain claims are subject to arbitration and the denial of its motion for reconsideration or for relief from judgment. (15 Minutes Per Side)

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**17-1043 Charles J. Taunt v. Bernard Gliberman, et al.**[2:13-mc-50297](#)

Eastern District of Michigan at Detroit

P. Borman

In this supplemental proceeding to collect on a judgment, the appellant appeals the denial of his motion for intervention as of right. (15 Minutes Per Side)

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**16-5429 USA v. Richard Thornton**[5:15-cr-00005-7](#)

Eastern District of Kentucky at Lexington

D. Reeves

**16-5430 USA v. Keenen Crane**[5:15-cr-00005-8](#)

Eastern District of Kentucky at Lexington

D. Reeves

**16-5496 USA v. David Tatum**[5:15-cr-00005-1](#)

Eastern District of Kentucky at Lexington

D. Reeves

Defendants appeal their convictions and sentences for conspiracy to commit bank fraud. (To Be Submitted On Briefs)

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**17-3332 Victor Blanco-Santa Maria v. Jefferson B. Sessions, III**

a 206 638 130

Board of Immigration Appeals

Petitioner seeks review of a decision of the BIA that denies asylum, withholding of removal, and protection under the Convention Against Torture. (To Be Submitted On Briefs)

Wednesday, December 06, 2017

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Clay, Gibbons, Bush**

**17-1473 Joanne Alberty v. Columbus Township**

[5:15-cv-13590](#)

Eastern District of Michigan at Ann Arbor

J. O'Meara

M. Majzoub

Plaintiff appeals the summary judgment for defendant on her claims for violation of the Age Discrimination in Employment Act. (15 Minutes Per Side)

**16-6760 USA v. Aaron Osborne**

[3:13-cr-00125-3](#)

Middle District of Tennessee at Nashville

K. Sharp

Defendant appeals his judgment in a criminal case for theft of government property. (15 Minutes Per Side)

**16-2080 Quonshay Mason v. DeWayne Burton**

[2:14-cv-10566](#)

Eastern District of Michigan at Detroit

N. Edmunds

R. Whalen

In this appeal from a district court order denying a state prisoners 28 U.S.C. Section 2254 petition for a writ of habeas corpus, the petitioner-appellant argues that the state trial judge's intemperate and unjust conduct deprived him of a fair trial and due process of law. (15 Minutes Per Side)

**17-1362 Bay Mills Indian Community v. Rick Snyder**

[1:11-cv-00729](#)

Western District of Michigan at Grand Rapids

P. Maloney

The movant appeals the denial of its motion to intervene as of right in this action under the Michigan Indian Land Claims Settlement Act. (15 Minutes for Appellant; 15 Minutes to be Shared by Appellees)

**15-6014 USA v. Henry Ramer**

[3:14-cr-00010-3](#)

Eastern District of Kentucky at Frankfort

G. Van Tatenhove

R. Wier

**15-6402 USA v. Henry Ramer**

[3:14-cr-00010-3](#)

Eastern District of Kentucky at Frankfort

G. Van Tatenhove

R. Wier

**16-5356 USA v. John Westine, Jr.**

[3:14-cr-00010-1](#)

Eastern District of Kentucky at Frankfort

G. Van Tatenhove

Defendants appeal their convictions and sentences for mail fraud, conspiracy to commit money laundering - fraud, and manipulative and deceptive devices in connection with purchase and sale of a security. Defendant Ramer also appeals the denial of his motion for a new trial. (10 Minutes for each Defendant; 20 Minutes for Plaintiff)

Thursday, December 07, 2017

403 - 4th Floor Courtroom, 9:00 A.M.

Before: **Griffin, Kethledge, Bush**

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**17-5554 D & S Remodelers, Inc. v. Wright National Flood Ins., et al.**

**3:15-cv-00059**

Middle District of Tennessee at Nashville

A. Trauger

Plaintiff appeals the dismissal of its diversity breach of contract action, arising from non-payment for repair and remediation services. (15 Minutes for Plaintiff; 15 Minutes to be Shared by Defendants)

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**17-5027 Daryl Higdon v. USA**

**2:16-cv-00246**

Eastern District of Tennessee at Greeneville

R. Jordan

Petitioner appeals a district court judgment denying his motion to vacate filed pursuant to 28 U.S.C. Section 2255. (15 Minutes Per Side)

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**16-6353 USA v. Dr. Philip Robinson**

**3:13-cv-00027**

Eastern District of Kentucky at Frankfort

E. Atkins

G. Van Tatenhove

Defendant appeals the judgment and denial of his motion for new trial. (15 Minutes Per Side)

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**17-5034 Herman Majors v. USA**

**3:15-cv-00799**

Middle District of Tennessee at Nashville

A. Trauger

In this appeal from a district court order denying a federal prisoner's 28 U.S.C. Section 2255 motion to vacate his sentence, the petitioner argues that his trial attorney performed ineffectively by failing to raise several sentencing arguments. (To Be Submitted On Briefs)

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**17-1176 USA v. Michael Ferguson**

**2:16-cr-20535-1**

Eastern District of Michigan at Detroit

R. Cleland

Defendant appeals the judgment entered following his plea of guilty of possession of firearms by a felon. (To Be Submitted On Briefs)

Thursday, December 07, 2017

607 - 6th Floor West Courtroom, 8:30 A.M.

Before: **Siler, White, Thapar****17-3087 USA v. Talman Harris**[1:15-cr-00335-2](#)

Northern District of Ohio at Cleveland

B. Pearson

Defendant appeals his conviction and sentence for conspiracy to commit securities and wire fraud, securities fraud, wire fraud, and obstruction of justice. (15 Minutes Per Side)

**17-3459 Sara Knowlton v. Richland County, Ohio, et al.**[1:15-cv-00210](#)

Northern District of Ohio at Cleveland

D. Polster

Defendants appeal the district court's denial of their motion for summary judgment on grounds of qualified and statutory immunity in this civil rights case brought in connection with the use of deadly force by Richland County Ohio Sheriff's deputies. (15 Minutes Per Side)

**16-2174 Martez Bickham v. Thomas Winn**[2:14-cv-14560](#)

Eastern District of Michigan at Detroit

S. Cox

Petitioner appeals the district court's denial of his petition for a writ of habeas corpus filed under 28 U.S.C. Section 2254. (15 Minutes Per Side)

**17-3407 Todd Graham, et al. v. Richard Fearon, et al.**[1:16-cv-02366](#)

Northern District of Ohio at Cleveland

P. Gaughan

Plaintiffs appeal the dismissal of their putative ERISA class action claiming that defendants breached their fiduciary duties by doing nothing to protect plaintiffs' retirement savings from harm while knowing that the Eaton Stock Fund was artificially inflated in value because of alleged fraud and misrepresentation by company executives. (15 Minutes Per Side)

**17-3401 John Doe v. Denison University**[2:16-cv-00143](#)

Southern District of Ohio at Columbus

M. Watson

Plaintiff appeals the district court's dismissal of his complaint alleging that the University's process for responding to claims of sexual misconduct by male students constitutes gender discrimination. (15 Minutes Per Side)

**17-1078 Todd Courser v. Keith Allard, et al.**[1:16-cv-01108](#)

Western District of Michigan at Grand Rapids

G. Quist

P. Green

In this action alleging civil rights violations, RICO claims, and claims under state law, plaintiff appeals the dismissal with prejudice of his claims against one of the defendants. (To Be Submitted On Briefs)

**17-5165 USA v. Michael Johnson**[1:04-cr-00092-1](#)

Eastern District of Tennessee of Chattanooga

C. Collier

C. Steger

Defendant appeals the denial of his motion for reduction of sentence. (To Be Submitted On Briefs)



Thursday, December 07, 2017

607 - 6th Floor West Courtroom, 8:30 A.M.

Before: **Siler, White, Thapar**

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**17-3463 Spiros Gonakis, Sr. v. Medmarc Cslty Ins Co**

[1:16-cv-02042](#)

Northern District of Ohio at Cleveland

P. Gaughan

Plaintiff appeals the summary judgment for defendants in this action arising out of defendants' denial of insurance coverage to plaintiff, an attorney, for a legal malpractice claim brought against him in state court. (To Be Submitted On Briefs)

Thursday, December 07, 2017

636 - 6th Floor East Courtroom, 9:00 A.M.

Before: **Clay, Gibbons, Cook**

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**16-2471 USA v. John Benchick**[2:13-cr-20453-1](#)

Eastern District of Michigan at Detroit

R. Cleland

In this direct appeal from a federal jury-trial conviction and 110-month prison sentence for one count of wire fraud and four counts of bank fraud, see 18 U.S.C. Sections 1343, 1344, the defendant argues, among other things, that the evidence was insufficient to support his convictions. (15 Minutes Per Side)

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**17-5562 Lexington H-L Services, Inc. v. Lexington-Fayette Urb Cty Gvt**[5:17-cv-00154](#)

Eastern District of Kentucky at Lexington

K. Caldwell

Defendant appeals an interlocutory order enjoining enforcement of a city ordinance prohibiting delivery of unsolicited newspapers except to six specific locations. (15 Minutes Per Side)

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**17-1234 Superior Communications v. City of Riverview, MI**[2:15-cv-13363](#)

Eastern District of Michigan at Detroit

D. Grand

G. Rosen

Plaintiff appeals the summary judgment of defendant in this action alleging that the denial of its request to upgrade radio broadcast equipment was a breach of a license agreement, violated its due process and equal protection rights, and violated the Telecommunications Act. (15 Minutes Per Side)

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**16-2701 Kevin Chorazyczewski v. Costco Wholesale Corporation**[2:13-cv-10861](#)

Eastern District of Michigan at Detroit

S. Cox

Plaintiff appeals the summary judgment for defendant in this diversity action asserting claims for assault and battery and negligence arising from an incident in which the plaintiff was apprehended while attempting to leave a store with stolen merchandise. (15 Minutes Per Side)

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**16-2638 Daniel Pittao v. Bonita Hoffner**[5:13-cv-14367](#)

Eastern District of Michigan at Detroit

J. Levy

The petitioner appeals the district court's denial of his petition for a writ of habeas corpus under 28 U.S.C. Section 2254. (15 Minutes Per Side)

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**17-3601 Christopher Wiest**[2:16-mc-00060](#)

Southern District of Ohio at Columbus

E. Sargus

**17-5605 Christopher Wiest**[3:17-mc-00011](#)

Western District of Kentucky at Louisville

J. McKinley

**17-5839 Christopher Wiest**[5:99-cv-99999](#)

Eastern District of Kentucky at Lexington

K. Caldwell

Appellant appeals from three district courts' imposition of reciprocal disciplinary sanctions in this attorney misconduct action arising out of Ohio and Kentucky. (To Be Submitted on Brief)

Friday, December 08, 2017

636 - 6th Floor East Courtroom, 8:30 A.M.

Before: **Clay, Gibbons, Cook**

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**17-5484 Robert Block v. Meharry Medical College**

**3:15-cv-00204**

Middle District of Tennessee at Nashville

A. Newbern

K. Sharp

Plaintiff appeals the judgment for Defendant in this action for retaliation and discrimination under Title VII. (15 Minutes Per Side)

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**17-1096 Marvin Seales v. City of Detroit, MI, et al.**

**4:12-cv-11679**

Eastern District of Michigan at Flint

D. Grand

G. Drain

In this civil rights action alleging claims for wrongful arrest and detention, the defendant officer appeals the denial of summary judgment on grounds of qualified immunity. (15 Minutes Per Side)

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**17-1264 USA v. James Cole**

**1:16-cr-00056-1**

Western District of Michigan at Grand Rapids

P. Maloney

Defendant appeals the judgment entered following his plea of guilty of bank robbery. (To Be Submitted On Briefs)

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**17-5081 USA v. Emilio Estrada**

**4:13-cr-00013-1**

Eastern District of Tennessee at Winchester

H. Mattice

Defendant appeals his judgment in a criminal case, following a guilty plea, for illegal entry by a removed alien. (To Be Submitted On Briefs)